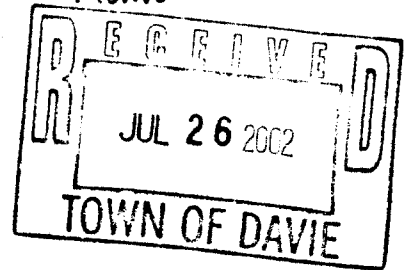


DAVIE POLICE DEPARTMENT
FROM THE OFFICE OF THE
CHIEF OF POLICE
JOHN A. GEORGE

C: Town clerk ✓
Monroe



TO: Thomas J. Willi, Town Administrator
SUBJECT: Motorized Vessels
DATE: July 25, 2002

Pursuant to your request, attached you will find a staff study looking into this issue. As you can see Cooper City and Plantation are local cities that put restrictions on motors.

After you have reviewed this information, please advise if you wish to have the Police Department draft such ordinance.

Russell,

please add to 8/27 agenda as new discussion
item. Use this info as backup.

Monroe - FYI.

gw
8/5/02

C&D 8/6/02 LS

DAVIE POLICE DEPARTMENT
MEMORANDUM

TO: Major McInerney

DATE: 25 July 2002

THRU: N/A

FROM: Ofc. Stephen Olenchak

SUBJECT: Ordinance prohibiting gas powered vehicles from our waterways

Currently the Town of Davie has no ordinance that specifically prohibits the use of motorized watercraft on the waterways within the Town. There are ordinances which address the subject of boats or related water craft in town ordinances: Sec. 12-32.104, Sec. 12-32.304, Sec. 12-33, Sec. 12-208, Sec. 12-203, et. Al. These, however, deal with the sale, parking, and storage of watercraft within the town. There is a restriction on gas powered watercraft contained within Sec. 15-7 subset (18) which reads:

(18) **Boats.** No person shall operate any engine-powered pleasure vessel, engine-powered craft or motor boat on any body of water, lake, canal or waterway being within the Town of Davie in such a manner as to exceed seventy-five (75) dBA, as measured at a distance of not less than fifty (50) feet from the path of travel.

I then contacted the Broward County Attorney's Office. In their opinion, there is no county ordinance which specifically prohibits the use of motorized watercraft upon the waterways which are within municipal jurisdictions. There are ordinances which deal with speed, parking, mooring and wake from gas powered vessels in Sec. 21-9 thru Sec. 21-26 of the Broward County Code. There is an ordinance under 251/2-4 (b)(1):

(1) No person shall bring into or operate any boat, yacht, cruiser, canoe, raft or other watercraft (except toys), whether motor powered or not, upon any park watercourse, bay, lagoon, lake, canal, pond or slough except at such places as are or may be designated for such use or purpose.

This section deals with operation of watercraft in wilderness areas or parks and goes on to prohibit gas powered vehicles.

I next made contact with the Central Broward Water Control District who advised that there are no State, County, or Federal laws which specifically prohibits the use of gas powered watercraft, however, they welcome the idea of a municipal ordinance.

I then searched through the municipal ordinances of the surrounding cities. Both the City of Plantation, and Cooper City, appear to be the only local cities who have any such ordinance. Please find attached the copies of these ordinances. It would be easy to modify either of these existing ordinances and codify them into the Town's.

Note: There are two relevant Florida State Statutes which provide the statutory foundation for municipal ordinances which restrict, limit, and otherwise regulate watercraft operated on the waterways contained within our jurisdiction.

Chapter 20

WATERCRAFT AND WATERWAYS

Sec. 20-1. Definition.

For the purpose, of this chapter, the word "boat" shall be defined to mean all watercraft of any type whatsoever operated on or moored, docked or anchored at any place on the canals or waters within the city.
(Code 1974, § 5-1)

Cross reference-Definitions and rules of construction generally, § 1-2.

Sec. 20-2. Operation restricted to electric-powered boats.

(a) It shall be unlawful for any person to operate, permit or cause to be operated, any boat or watercraft on any waterway within the territorial boundaries of the city which shall be powered or propelled by any engine motor or other mechanical device other than an electric motor.

(b) The various municipal departments of the city are authorized to use gasoline- or diesel-powered boats or other watercraft upon any waterway of the territorial boundaries of the city for any emergency situation and further for the general maintenance of the waterway; such use for general maintenance of the waterways shall however be conducted at reasonable times and hours of the day.

(Code 1974, § 5-2)

Sec. 20-3. Penalty for violations.

If a citation issued for a violation of this chapter shall be paid prior to the issuance of a Notice to Appear or Municipal Information, the fine shall be twenty-five dollars (\$25.00). After the issuance of a Notice to Appear or Municipal Information, the penalties provided in section 1-8 of this code shall be applicable.

(Code 1974, § 5-11; Ord. No. 81-8-1, § 1, 2, 8-11-81; Ord. No. 00-1-7, § 2, 1-11-00)

*Cross references-Parks and recreation, Ch. 12; planning, Ch. 24; streets, commercial or recreational vehicles, boats or boat trailers in residential districts, Ch. 17; zoning regulations of boat landing, docks and piers, Ch. 23.

State law references-Tidal lands and bulkheads, F.S. § 253.12 et seq.; deposit of material in tidewater regulated, F.S. § 309.01; Florida boat registration and safety law, F.S. § 371.011 et seq.; local regulations qualified, F.S. § 371.59.

* CITY OF PLANTATION *

Trash, garbage, debris, construction material or obstructions when present in or on or under the surface of tidal waterways are hereby declared to be public nuisances, the abatement of which pursuant to the police power is necessary for the health, welfare and safety of the residents of the city.

(Code 1964, § 26A-3)

Cross reference(s)--Health and sanitation, Ch. 11.

Sec. 15-37. Pipelines, cables or other devices that cross a tidal waterway.

- (a) **Structures.** After November 1, 1977, there shall be no structures placed so as to span or cross over a tidal waterway.
- (b) **Subaqueous installations.** Any pipes, cables or devices that cross a tidal waterway shall be installed as a subaqueous installation. In any such installation, the top of the pipe, cable or device shall be no less than seven (7) feet below mean sea level.

(Code 1964, § 26A-5)

Sec. 15-38. Nonliability of city for maintenance of tidal waterways.

Notwithstanding anything to the contrary set forth or implied by this chapter regulating tidal waterways, the city is not assuming or becoming liable by the enactment or enforcement of this chapter for the maintenance of tidal waterways or for the maintenance or construction of seawalls or docks; nor shall this chapter in any way affect the jurisdiction of other governmental agencies concerning the permitting of docks or seawalls in tidal waterways; nor shall this chapter constitute an undertaking by the city to maintain tidal grades or slopes on private property.

(Code 1964, § 26A-8)

Sec. 15-39. Right of entry.

Upon presentation of proper credentials, the building official may enter, at any reasonable time, any building or structure or property for the purpose of inspection as to prevent violations of this article.

(Code 1964, § 26A-10)

ARTICLE IIA. MOTOR-POWERED BOATS*

*Editor's note--Ord. No. 1503, § 3, adopted Oct. 7, 1987, repealed emergency Ord. No. 1453, adopted Mar. 4, 1987, § 2 of which comprised Art. IIA, §§ 15-40--15-44, concerning motor-powered boats. Section 2 of Ord. No. 1503 added new Article IIA provisions, as herein set out.

Sec. 15-40. Applicability.

The provisions of this Article IIA shall control in the event of any conflict or inconsistency with the other provisions of this chapter.
(Ord. No. 1503, § 2, 10-7-87)

Sec. 15-41. Definitions.

For the purposes of this article, the following definitions shall apply:

Canal, waterway or lake. Any body of water within the corporate limits of the City of Plantation, regardless of whether such water body is tidal or nontidal.

Motor-powered boat. Any boat or vessel propelled or powered by machinery, regardless of whether or not such machinery is the principal source of propulsion.

(Ord. No. 1222, § 1, 7-11-84; Ord. No. 1503, § 2, 10-7-87)

Sec. 15-42. Operation.

- (a) No motor-powered boat may be operated on any canal, waterway or lake within the corporate limits of the City of Plantation, ~~except as provided by this article.~~
- (b) No motor-powered boat shall be operated on any canal, waterway or lake at more than idle speed, which is herein defined as a speed only sufficient to maintain steerage, said idle speed to assure minimum vexatious noise level or damaging wake on such canal, waterway or lake from such motor-powered vessels.
- (c) No motor-powered boat shall be operated on any canal, waterway or lake within the corporate limits of the City of Plantation between the hours of sunset and sunrise.

(Ord. No. 1222, § 2, 7-11-84; Ord. No. 1503, § 2, 10-7-87)

Sec. 15-43. Violations; penalty.

Any person found to be in violation of any section of this article may be subject to a fine not to exceed five hundred dollars (\$500.00) or have his motor-powered boat impounded for a period not in excess of thirty (30) days, or both. The court may prohibit such person from operating a motor boat for a period not to exceed thirty (30) days, or by both such fine and other penalty or penalties, in the discretion of the court.

(Ord. No. 1503, § 2, 10-7-87)

Secs. 15-44--15-50. Reserved.

ARTICLE III. SEAWALLS*

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327.60 Local regulations; limitations.--

(1) The provisions of ss. [327.01](#), [327.02](#), [327.30-327.40](#), [327.44-327.50](#), [327.54](#), [327.56](#), [327.65](#), [328.40-328.48](#), [328.52-328.58](#), [328.62](#), and [328.64](#) shall govern the operation, equipment, and all other matters relating thereto whenever any vessel shall be operated upon the waterways or when any activity regulated hereby shall take place thereon. Nothing in these sections shall be construed to prevent the adoption of any ordinance or local law relating to operation and equipment of vessels, except that no such ordinance or local law may apply to the Florida Intracoastal Waterway and except that such ordinances or local laws shall be operative only when they are not in conflict with this chapter or any amendments thereto or regulations thereunder. Any ordinance or local law which has been adopted pursuant to this section or to any other state law may not discriminate against personal watercraft as defined in s. [327.02](#).

(2) Nothing contained in the provisions of this section shall be construed to prohibit local governmental authorities from the enactment or enforcement of regulations which prohibit or restrict the mooring or anchoring of floating structures or live-aboard vessels within their jurisdictions. However, local governmental authorities are prohibited from regulating the anchorage of non-live-aboard vessels engaged in the exercise of rights of navigation.

History.--s. 10, ch. 59-400; s. 16, ch. 63-105; s. 1, ch. 65-361; s. 3, ch. 72-55; s. 2, ch. 83-20; s. 38, ch. 95-143; s. 30, ch. 99-289; s. 20, ch. 2000-362.

Note.--Former s. 371.59.

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327.22 Regulation of vessels by municipalities or counties.--

(1) Nothing in this chapter shall be construed to prohibit any municipality or county that expends money for the patrol, regulation, and maintenance of any lakes, rivers, or waters, and for other boating-related activities in such municipality or county, from regulating vessels resident in such municipality or county. Any county or municipality may adopt ordinances which provide for enforcement of noncriminal violations of restricted areas which result in the endangering or damaging of property, by citation mailed to the registered owner of the vessel. Any such ordinance shall apply only in legally established restricted areas which are properly marked as permitted pursuant to ss. [327.40](#) and [327.41](#). Any county and the municipalities located within the county may jointly regulate vessels.

(2) Citations issued to liveried vessels pursuant to this subsection shall be the responsibility of the lessee of the vessel. It shall be the responsibility of the lessor upon request of the agency issuing the citation, to provide the name and address of the lessee. It shall be the responsibility of the livery to provide such information as a part of the rental agreement. The livery is not responsible for the payment of citations if the livery provides the required information.

History.--s. 1, ch. 65-361; s. 8, ch. 74-327; s. 112, ch. 77-104; s. 24, ch. 79-334; s. 2, ch. 82-17; s. 7, ch. 84-184; s. 1, ch. 85-108; s. 1, ch. 85-287; s. 4, ch. 89-168; s. 1, ch. 90-219; s. 1, ch. 92-188; s. 21, ch. 99-289; s. 4, ch. 2000-362.

Note.--Former s. 371.63.

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